

Race and Redemption

Reform is coming to juvenile justice. But except in pioneering communities, it still comes too slowly for black and Latino youths.

ELLIS COSE | *August 14, 2005*

As an attorney for the Youth Law Center, litigating largely over conditions of confinement, James Bell spent some 20 years in courtrooms across America. The scene was always much the same: Even in communities that were overwhelmingly white, those arrested, detained, and convicted were overwhelmingly black and brown. Nonwhites, as Bell saw it, were being “Velcroed in” as whites were “Tefloned out.”

The statistics are now so well-known they have almost lost their ability to shock: roughly 2 million men behind bars, the majority of whom are Latino and black. At every juncture -- from suspicion to conviction -- people of color, especially blacks, are significantly more likely than whites to get tangled up in America's system of justice. And juvenile statistics mirror those for adults: Roughly two-thirds of juveniles detained in public facilities are persons of color -- nearly twice their proportion in the general population. If you are young, Latino, and male, your odds of being in juvenile detention are more than twice those of your Anglo counterpart. If you are Native American, odds are three times as likely. If you are black, five times as likely. We have reached the point where the only bond linking many black fathers, sons, and grandsons is time spent behind bars. Imagine a great conveyor belt onto which will stumble a third of America's black males (if current trends continue), leading toward confinement and away from every positive option in life, and you have some sense of the crises upon us.

Bell's front-row seat at the justice factory impelled him to try to turn those statistics around. Nearly four years ago, he launched the W. Haywood Burns Institute for Juvenile Justice Fairness and Equity. Based in San Francisco and named for a crusading black attorney, the institute aspires to snatch young people off the conveyor belt before their nobler aspirations are irremediably crushed. And it is already having an impact.

In the communities in which it works, the institute tries to bring together all so-called stakeholders -- judges, police, public defenders, community organizations, probation-department officials, and others who don't ordinarily collaborate. One purpose is simple education: People sitting in judgment often “have no idea about the lives of the people they are imposing conditions on,” observed Bell. But the larger purpose is to find a common plan of action. That may mean seeking alternatives to confinement for nonviolent parole violators. In Chicago and Sacramento, California, the process has led to the creation of evening reporting centers. Young offenders are picked up after school and taken to a gathering place, where they are fed, helped with their homework, and taught something about different options in life.

In a field defined almost exclusively by very bad news, the good news is that Bell is not alone. Even as an alarmist mass media and slogan-chanting politicians have focused on “super-predators” wreaking havoc on society, more reasoned minds have come to agree with the commonsensical view that “14-year-olds are almost never beyond any form of redemption,” in the words of Christina Swarns, director of the criminal-justice program of the NAACP Legal Defense and Educational Fund.

The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI), launched in 1992, was inspired in large measure by a Casey Foundation-funded project in Broward County,

Florida, aimed at reducing the number of young people behind bars. According to the foundation's Bart Lubow, the initiative runs "against the grain of a fundamental mythology" that more people behind bars automatically leads to greater public safety. It also runs contrary to the widespread assumption that race and racism have essentially been banished from the justice system.

That assumption is not yet supported by facts. In a review of 233 juvenile cases in Washington state, sociologists George Bridges and Sara Steen found that racial stereotyping played an unmistakable role in how offenders were viewed. Probation officers preparing sentencing reports tended to characterize whites as potentially good people who were victims of unfortunate circumstances, whereas blacks were more likely to be seen as intrinsically bad, according to their study published in the *American Sociological Review* in 1998. Not coincidentally, after analyzing six years of court records, a team from *The Chicago Reporter* found in 2002 that blacks and Latinos generally got stiffer penalties than whites who had committed the same drug crimes.

For its pilot program, the foundation identified five JDAI sites: Cook County, Illinois; Milwaukee County, Wisconsin; Multnomah County, Oregon; New York City; and Sacramento County, California. By 1998, only three sites remained. The powers that be in both New York (by this time Rudolph Giuliani had become mayor) and Milwaukee had lost their enthusiasm for any programs that could be perceived as soft on perpetrators. Cook, Multnomah, and Sacramento counties pressed ahead. Santa Cruz, California, and King County, Washington, joined along the way. The approach the JDAI pioneered is essentially that now employed by Bell's W. Haywood Burns Institute.

In Cook County (Chicago), all participants realized that the vast majority of youths detained were people of color, mostly blacks, but there was no real consensus about what role race played in the process. As a result, the Chicago initiative focused much less on race than on reducing the numbers of youths in detention overall. Between 1996 and 2000, the number dropped 31 percent - although people of color continued to constitute the vast majority of those detained.

In Multnomah County (Portland), the results were even more dramatic. Between 1994 and 2000, the number of youths detained dropped by more than 50 percent, and statistics that had previously shown racially disparate treatment began to even out.

There is no "silver programmatic bullet," Lubow observes. Creating a saner, more equitable juvenile-justice system requires specific local actions tailored to local conditions, on a range of fronts from staffing to policing to nurturing relationships among stakeholders. The Casey Foundation also found that without explicitly focusing on racial disparity, localities were not likely to do much to reduce it -- notwithstanding the fact that all racial disparities do not stem from explicit bias. In Illinois, for instance, a law that required that juveniles be tried as adults if caught selling drugs within 1,000 feet of a school ended up affecting mostly nonwhites -- because white drug dealers, operating in the more spatially dispersed suburbs, were less likely to be near schools.

The number of JDAI sites has now grown to 50. Increasingly, knowledgeable people are appreciating that there are "a whole bunch of deleterious impacts to locking up kids in detention center," in the words of Jason Ziedenberg, executive director of the Justice Policy Institute. Some of the worst impacts are obviously on the young people themselves, who, among other things, are likely to have a radically shortened lifespan due to violence. Researchers at Northwestern University found that juveniles in Cook County who had been in detention were more than four times as likely to die (over an eight-year period) than their matched peers who had managed to avoid being locked up. Of the 65 deaths that researchers recorded during the study, all were violent. "Everyone died awful, violent deaths -- run over by gang members, stabbed by a boyfriend," Linda Teplin, a member of the Northwestern team, told a reporter for *HealthDay News*. Teplin went on to observe that the number of deaths among the youngsters she studied in

Cook County was higher than the total death toll in all mass school shootings between 1990 and 2000. Yet while concern was showered on those largely white victims of mass murder, little was shown for the mostly minority victims of Cook County. "We somehow care much less about urban violence, especially when it involves minority kids," Teplin concluded.

Whether or not politicians care less about such kids, more and more are realizing that locking up young people and figuratively throwing away the key is an expensive policy failure. As a growing body of research is coming to show, early and sensible intervention reduces the likelihood that young offenders will end up as adult criminals. Young wrongdoers are less likely to err again if they are kept out of adult facilities, where they generally become not only more accepting of a life of crime but also more comfortable with committing more serious crimes.

Despite what used to be received wisdom -- "nothing works" -- it is becoming very clear that some things do work, that it is possible to simultaneously reduce the burden of young offenders on society, increase their odds of success in life, and eliminate much of the bias in the system. That does not necessarily mean that the old ways are dead. It does mean, however, that they should be. For, tough-on-crime rhetoric notwithstanding, it is becoming harder than ever to justify putting young people on that giant conveyer belt that bypasses hope and heads directly to hell.

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